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Attorneys for Plaintiff Paige, LLC, a
California limited liability company

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

PAIGE, LLC, a California limited
liability company,

Plaintiff,

vs.

DIGITAL BRANDS GROUP, INC. dba
DSTLD, a Delaware corporation; AND
DOES 1-10,

Defendants.

Case No.

COMPLAINT FOR:

(1) Copyright infringement;

(2) False Advertising (California Bus
& Prof. Code §§ 17500 and 17535);

(3) Unfair Competition (California
Bus. & Prof. Code §§ 17200 And
17203); and

(4) Unfair Competition
(California Common Law)

Paige, LLC (“**Plaintiff**” or “**Paige**”) hereby alleges as follows:

PARTIES

1. Plaintiff is a California limited liability company organized and existing under the laws of the State of California with its principal place of business located in Los Angeles County.

2. Plaintiff is informed and believes, and based thereon alleges, that defendant Digital Brands Group, Inc. dba DSTLD, a Delaware corporation (“**DSTLD**” or “**Defendant**”) is a corporation, organized and existing under the laws of

1 the State of Delaware whose principal place of business is Texas.

2 3. Plaintiff is informed and believes, and based thereon alleges, that
3 DSTLD is doing business, including in this judicial district, as a designer,
4 manufacturer, importer, wholesaler, and/or retailer of apparel. Plaintiff is informed
5 and believes, however that DSTLD has not qualified to do business in California with
6 the California Secretary of State.

7 4. Plaintiff is informed and believes, and based thereon alleges, that
8 defendants DOES 1 through 10, inclusive, have infringed Plaintiff's Copyrights, have
9 contributed to infringement of Plaintiff's Copyrights, and/or engaged in one or more
10 of the wrongful practices alleged herein. The true names of DOES 1 through 10,
11 inclusive, are presently unknown to Plaintiff, which therefore sues said defendants by
12 such fictitious names and will seek leave to amend this complaint to show their true
13 names and capacities when same have been ascertained.

14 5. Hereinafter defendants DSTLD and DOES 1 through 10, inclusive, shall
15 be referred to collectively as "**Defendants.**"

16 **JURISDICTION AND VENUE**

17 6. This action arises under the Copyright Act of 1976, Title 17 U.S.C. §101
18 *et seq.*

19 7. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
20 §1338(a). This Court also has supplemental jurisdiction pursuant to 28 U.S.C. 1338(b)
21 and 1367 over Plaintiff's claims that arise under the laws of the State of California.

22 8. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c).

23 **THE COPYRIGHTED DESIGN**

24 9. Plaintiff has over the course of many years developed a distinctive brand
25 and a particular "look and feel" to its clothing. Plaintiff has spent large sums of money
26 in connection with advertisement of its products and cultivation of its brand and
27 image.

28 10. As a result of these efforts and expenditures, Plaintiff has developed a

1 loyal following among retailers and consumers for its original designs and premium
2 quality products.

3 11. In connection with a current advertising campaign, Plaintiff conducted a
4 photoshoot with Blake Hardy, a professional model, during which he wore Plaintiffs
5 upcoming line of clothing. One of those items that he wore, and was a focus of the
6 photoshoot, was Plaintiff's "Newsom Moto Jacket" in black leather that is part of its
7 ICON Capsule collection (the "**Jacket**").

8 12. As part of its brand cultivation efforts, Paige hires a videographer to
9 create a movie version of the photoshoot that can then be used on social media and
10 shown to retailers to generate buzz and overall excitement for its products. Further,
11 consistent with its branding approach, Paige records "Behind the Scenes" videos of
12 the Photoshoots which it then uses in social media campaigns.

13 13. Plaintiff is the copyright holder of the original motion picture, which it
14 has titled: "Behind the Scenes: Blake Hardy Paige August 24, 2002 Photo Shoot" (the
15 "**Video**"). The Video was created on August 24, 2022, and first shown to the public
16 on November 30, 2022, when it was published – with permission and as part of
17 Plaintiff's social media strategy – to Mr. Hardy's Instagram page.
18 (<https://www.instagram.com/p/ClmYDT0Sp19/?igshid=YmMyMTA2M2Y%3DCI>
19 TE.) Attached hereto as Exhibit 1 is a screen shot from of Mr. Hardy's post.

20 14. On or about December 7, 2022 Plaintiff obtained a Certificate of
21 Registration for the Video from the United States Copyright Office, bearing
22 registration number PA 2-383-826. Attached hereto as Exhibit 2 is a true and correct
23 copy of the Certificate of Registration for the Video.

24 15. On or about December 2, 2022, Plaintiff and Hardy discovered that
25 DSTLD has taken a screen capture from the Video showing Hardy wearing the Jacket
26 and posted it on its Website (www.DSTLD.com) and Instagram Account
27 (<https://www.instagram.com/p/ClmadGtOlhu/>), representing to the general public
28 that Mr. Hardy was wearing a DSTLD jacket. Attached hereto as Exhibit 3 is a true

1 and correct copy of DSTLD's Instagram post, which was also used on its website.
 2 Defendant's website and Instagram post, by using a screen capture of the Video,
 3 passed off Plaintiff's products as its own.

4 5 **FIRST CLAIM FOR RELIEF**

6 **(Copyright Infringement**

7 **Against DSTLD and DOES 1-10)**

8 16. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1
 9 through 15 hereinabove, and incorporates them by reference as if fully set forth herein.

10 17. Within the last three years, Defendants have published, without
 11 authorization, on its website and Instagram page a screen capture image from the
 12 Video.

13 18. Defendants infringing republishing of the screen capture from the Video
 14 was made available to retailers and consumers throughout the United States, including
 15 within this judicial district.

16 19. By Defendants willful, knowing and unauthorized republishing of the
 17 screen capture image from the Video, Defendants have infringed on Plaintiff's
 18 Copyright in the Video.

19 20. Plaintiff is without adequate remedy at law to prevent the wrongful acts
 20 of Defendants herein set forth, and said acts of Defendants have resulted and will
 21 result in irreparable damage to Plaintiff unless Defendants' acts of infringement are
 22 enjoined by this Court.

23 21. Defendants' willful and intentional infringing activities have continued
 24 and will continue to the detriment of Plaintiff, and loss and injury to Plaintiff's
 25 business in an amount not presently ascertainable, and threaten to increase such loss
 26 and injury unless such activities are enjoined by this Court and Defendants are
 27 required to recall and destroy all Infringing Goods.

28 22. By reason of the acts of Defendants alleged herein, Plaintiff has suffered

1 actual damages in an amount subject to proof at trial.

2 23. Due to Defendants' acts of copyright infringement, Defendants, and each
3 of them, have obtained profits they would not otherwise have realized but for their
4 infringement of the Copyrighted Design. Pursuant to the Copyright Act, Plaintiff is
5 entitled to disgorgement of Defendants' profits attributable to Defendants'
6 infringement of the Video in an amount subject to proof at trial. Plaintiff is further
7 entitled to recover its lost profits resulting from Defendants' acts of infringement,
8 which are subject to proof at trial.

9 24. Plaintiff is informed and believes, and based thereon alleges, that
10 Defendants' acts of infringement as alleged herein were willful and deliberate.
11 Accordingly, in the event that Plaintiff elects statutory damages, Defendants, and each
12 of them, are subject to liability for statutory damages under Section 504(c)(2) of the
13 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00)
14 per infringed copyright and per retailer stream of commerce.

15 16 **SECOND CLAIM FOR RELIEF**

17 **False Advertising (California Bus & Prof. Code §§ 17500 and 17535)**

18 **– Against All Defendants)**

19 25. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1
20 through 15 hereinabove, and incorporates them by reference as if fully set forth herein.

21 26. DSTLD, however, did not simply republish the screen capture from the
22 Video without authorization. As set forth above, Defendants disseminated or caused
23 to be disseminated advertisements featuring Plaintiff's Jacket via the screen capture
24 from the Video in an effort to cause consumers to purchase DSTLD's leather jacket.
25 DSTLD specifically claimed in the Instagram advertisement that the Jacket was its
26 product. By falsely associating the Jacket with DSTLD, Defendants drove consumers
27 to its website to purchase the Jacket and/or other products.

28 27. Plaintiff is informed and believes, and based thereon alleges, that

1 consumers did, in fact, visit DSTLD's website and buy products as a direct result of
2 the Instagram advertisement.

3 28. Plaintiff is further informed and believes, and based thereon alleges, that
4 by posting the screen capture portion of the Video to its website, Defendants caused
5 consumers to search through the DSTLD website to try and locate the product, but
6 whom ultimately bought other DSTLD products.

7 29. DSTLD, however, was not content to simply advertise the jacket as its
8 own. In addition to attempting to drive consumers to its website, and/or spend more
9 time on its website looking at *other* products, DSTLD engaged in a classic bait-and-
10 switch. Instagram, on its phone application, allows retailers to establish a "click to
11 buy" option, whereby an Instagram user could click on a picture of a product and be
12 taken to the retailer's website to purchase the same. Defendants enabled this "click
13 to buy" functionality to create its fraudulent advertisement such that a user could click
14 to "Purchase" the jacket advertised in the unauthorized screen capture (as shown in
15 Exhibit 4). That advertisement, however, then took the consumer to a page offering
16 a *different* leather jacket.

17 30. Plaintiff is informed and believes, and based thereon alleges, that
18 consumers purchased DSTLD's leather jacket based on the false and misleading
19 advertising.

20 31. Plaintiff is further informed and believes, and based thereon alleges, that
21 consumers that purchased DSTLD's leather jacket would have purchased Plaintiff's
22 leather jacket but-for the fraudulent advertising. Plaintiff, therefore, suffered actual
23 and direct damages as a result of DSTLD's fraudulent advertising.

24 32. Defendants' acts as alleged herein constitute the use of deceptive, untrue,
25 and misleading advertising, of which Defendants knew or should have known,
26 thereby causing direct damages to Plaintiff and otherwise adversely affecting
27 Plaintiff's business and reputation (including by leading customers to believe that
28 Plaintiff's Jacket was a knock-off of a DSTLD jacket). These acts constitute false

1 advertising under California Business and Professions Code §§ 17500 and 17535, and
2 California common law.

3 33. Money damages will not adequately remedy Plaintiff's injuries.
4 Plaintiff, therefore, is entitled to temporary, preliminary, and permanent injunctive
5 relief prohibiting Defendants from continuing such acts of false and misleading
6 advertising.

7 34. Plaintiff also is entitled to damages, Defendants' profits, and other
8 remedies according to proof at trial, including costs and attorneys' fees.

9 10 **THIRD CLAIM FOR RELIEF**

11 **(Unfair Competition (California Bus. & Prof. Code §§ 17200 and 17203))**

12 **– Against All Defendants)**

13 35. Plaintiff repeats and realleges the allegations contained in each of the
14 foregoing paragraphs of this Complaint as though fully set forth herein.

15 36. Defendants' wrongful conduct as alleged herein constitutes unfair
16 competition and unfair business practices.

17 37. Based on the wrongful, unlawful, fraudulent, and unfair acts described
18 herein, Defendants are in violation of California Business and professions Code §§
19 17200 and 17203.

20 38. Plaintiff has suffered, is suffering, and will continue to suffer monetary
21 loss as a result of Defendants' unfair business practices.

22 39. Plaintiff has suffered, is suffering, and will continue to suffer irreparable
23 harm and injury for which it has no adequate remedy at law. Plaintiff, therefore, is
24 entitled to permanent injunctive relief against further unfair conduct by Defendants.

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FOURTH CLAIM FOR RELIEF
(Unfair Competition (California Common Law)
– Against All Defendants)

40. Plaintiff repeats and realleges the allegations contained in each of the foregoing paragraphs of this Complaint as though fully set forth here.

41. Defendants' wrongful conduct as alleged herein constitutes unfair competition and unfair business practices under California common law.

42. Defendants have profited and is profiting from such unfair conduct.

43. Plaintiff, therefore, is entitled to recover restitution in the form of Defendants' profits, in an amount to be proven at trial, as a consequence of GL Defendants' wrongful activities.

44. Defendants' aforesaid conduct has been wrongful, unlawful, unfair, fraudulent, willful, wanton, and malicious, done with intent, and in conscious disregard for the rights of Plaintiff in violation of California Civil Code § 3294(a). Plaintiff, therefore, is entitled to punitive damages pursuant to California Civil Code § 3294(a).

PRAYER

WHEREFORE, Plaintiff prays for relief against Defendants, and each of them, as follows:

On The First Cause of Action

1. Actual damages, plus Defendants' profits attributable to the Defendants' infringement of the Video, in an amount subject to proof at trial; or, if elected, statutory damages as available under the Copyright Act of \$150,000.00.

On the Fourth Cause of Action

2. Consequential damages in an amount subject to proof at trial.

3. An award of punitive damages, to the maximum extent allowable by law.

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RESCH POLSTER & BERGER LLP

1 On All Causes of Action

2 4. For a preliminary injunction and a permanent injunction, restraining
3 Defendants and their agents, servants, employees, and all persons acting under, in
4 concert with, or for them, from using Plaintiff's Video for any purpose.

5 5. For an order requiring the destruction of all infringing uses of the Video,
6 including but not limited to the deletion of the Instagram post and removal of the
7 screen capture from the DSTLD website.

8 6. For costs and attorneys' fees incurred, to the maximum extent allowed
9 by law.

10 7. For such further and other relief as the Court deems just and proper.

11
12 DATED: December 16, 2022 RESCH POLSTER & BERGER LLP
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15 By: /S/Andrew V. Jablon
16 ANDREW V. JABLON
17 Attorneys for Plaintiff
18 Paige, LLC
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury in this action.

DATED: December 16, 2022

RESCH POLSTER & BERGER LLP

By: /S/Andrew V. Jablon

Andrew V. Jablon
Attorneys for Plaintiff
Paige, LLC

RESCH POLSTER & BERGER LLP